

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

HOLLIS J. LARSON,

Civil No. 13-1074 (JRT/DJF)

Plaintiff,

v.

THE MINNESOTA SEX OFFENDER
PROGRAM et al.,

**MEMORANDUM OPINION AND ORDER
GRANTING PLAINTIFF'S APPLICATION TO
PROCEED IN FORMA PAUPERIS ON
APPEAL**

Defendants.

Hollis J. Larson, MSOP, 1111 Highway 73, Moose Lake, MN 55767, *pro se* plaintiff.

Benjamin C. Johnson, **MINNESOTA ATTORNEY GENERAL'S OFFICE**, 445 Minnesota Street, Suite 1400, Saint Paul, Minnesota, 55101, for Defendants.

Plaintiff Hollis J. Larson is civilly committed under the Minnesota Sex Offender Program ("MSOP"). Pursuant to 42 U.S.C. § 1983, Larson is suing the MSOP and its staff for various forms of maltreatment at the facility. (See Compl. at 3, 42–46, May 6, 2013, Docket No. 1.) Larson moved for the appointment of counsel. (Mot. Appoint Counsel, July 13, 2022, Docket No. 20.)

Magistrate Judge Dulce Foster determined that Larson's Amended Complaint alleges a colorable basis for relief and granted Larson's application to proceed *in forma pauperis* ("IFP") in the district court action. (See Order Den. Appointment of Counsel at 3, Dec. 1, 2022, Docket No. 32.) In the same order, the Magistrate Judge denied Larson's

Motion to Appoint Counsel. (*Id.* at 4.) Larson appealed but the Court affirmed the Magistrate Judge’s order denying appointment of counsel. (See Mem. Op. and Order, May 16, 2023, Docket No. 100.) Larson has now appealed the Court’s decision to the Eighth Circuit and seeks to proceed with IFP status.

A litigant who seeks to be excused from paying the filing fee for an appeal in a federal case may apply for IFP status under 28 U.S.C. § 1915. The *in forma pauperis* statute has been applied to prisoner and non-prisoner cases alike. *See Nichole K. v. Comm'r of Social Security*, No. 19-1662, 2019 WL 3037087, at *1, n.1 (D. Minn. July 11, 2019). To qualify for IFP status, the litigant must demonstrate that they cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1).

A party that seeks to proceed *in forma pauperis* on appeal must file a motion in district court. Fed. R. App. P. 24(a)(1). The “prior approval” clause allows a party that was permitted to proceed *in forma pauperis* in the district court action to proceed *in forma pauperis* on appeal without further authorization. Fed. R. App. P. 24(a)(3). Therefore, Larson does not need further approval to proceed *in forma pauperis*, unless the Court determines his “appeal is not taken in good faith.” Fed. R. App. P. 24(a)(3)(A); *see also* 28 U.S.C. § 1915(a)(3). Because Larson’s appeal is in good faith, the prior approval clause permits Larson to proceed *in forma pauperis* on appeal, and his application is granted.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS**
HEREBY ORDERED that Larson's Motion for Leave to Appeal In Forma Pauperis [Docket
No. 102] is **GRANTED**.

DATED: June 26, 2023
at Minneapolis, Minnesota.

John R. Tunheim
JOHN R. TUNHEIM
United States District Judge